

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ADVANCED CODING TECHNOLOGIES,
LLC,

Plaintiff,

V.

APPLE INC.,

Defendant.

Case No. 2:24-cv-00572-JRG
(LEAD CASE)

JURY TRIAL DEMANDED

ADVANCED CODING TECHNOLOGIES,
LLC,

Plaintiff,

V.

APPLE INC.,

Defendant.

Case No. 2:24-cv-00687-JRG
(MEMBER CASE)

JURY TRIAL DEMANDED

**DECLARATION OF STEPHANIE CALHOUN JEMMINGS IN SUPPORT OF
DEFENDANT APPLE INC.'S MOTION TO DISMISS**

I, Stephanie Calhoun Jemmings, hereby declare:

1. I am employed by Apple Inc. (“Apple”) in Cupertino, California, where I have worked since 2006. My current title at Apple is Senior Manager, Apple Channel Sales Programs. Among other responsibilities, I provide strategic and operational support for a team of approximately 360 Apple employees who work within third-party retailers, such as Best Buy. I help define the roles and responsibilities of Apple employees while at third-party retail locations.

2. I provide this declaration in support of Apple’s motion to dismiss. Unless otherwise indicated below, the statements in this declaration are based upon either my personal knowledge or corporate records maintained by Apple in the ordinary course of business.

I. Apple’s Employees Within Best Buy’s Stores

3. Apple’s products are sold to consumers through various sales channels including third-party retailers, such as Best Buy. Those third-party retailers are solely responsible for the management and operation of their own stores.

4. Apple has a field team of employees who work within third-party retail locations, including Best Buy’s stores. There are three types of Apple employees who work within Best Buy’s stores: (i) “Lead Apple Solutions Consultants” (“Lead ASCs”); (ii) “Apple Solutions Consultants” (“ASCs”); and (iii) “Part-Time Specialists” (“Specialists”). These Apple employees are not involved in the management or operation of Best Buy’s stores. For example, they do not conduct transactions or manage inventory, and they are expressly forbidden by Apple from doing so. Instead, these Apple employees engage with Best Buy’s employees and customers to educate them about Apple’s products, advocate for Apple’s brand, and help customers choose an Apple product that best suits their needs.

5. Apple currently has a total of ten employees who work within nine different Best Buy stores located in the Eastern District of Texas. Those Best Buy locations and their current staffing with Apple employees are shown in the table below. Each of these Best Buy locations has only one or two Apple employees assigned to it. Some Best Buy locations in the Eastern District of Texas have no Apple employees assigned to them (*e.g.*, Best's Buy's locations in Flower Mound, McKinney, Port Arthur, Sherman, and Texarkana). A "Lead" ASC is responsible for covering multiple locations. For example, one Lead ASC covers the Best Buy locations in Lewisville, Denton, and Frisco (Eldorado Parkway), and another Lead ASC covers the Best Buy locations in Plano and Allen. Apple currently has four Lead ASCs, two ASCs, and four Specialists who work within Best Buy locations in the Eastern District of Texas.

Store Name	Store Street Address	Apple Employees
Best Buy - 0180	3333 Preston Rd 200, Frisco	1 ASC
Best Buy - 0202	2800 N Central Expy, Plano	1 Lead ASC
Best Buy - 0238	5885 Eastex Fwy, Beaumont	1 Lead ASC
Best Buy - 0246	5514 S Broadway, Tyler	1 ASC
Best Buy - 0258	2601 S Stemmons Fwy, Lewisville	1 Lead ASC + 1 Specialist
Best Buy - 0594	422 W Loop 281, Ste 100, Longview	1 Specialist
Best Buy - 0827	1800 S Loop 228, Ste 120, Bldg 1, Denton	1 Lead ASC + 1 Specialist
Best Buy - 1773	5299 Eldorado Pkwy, Frisco	1 Lead ASC + 1 Specialist
Best Buy - 1780	190 E Stacy Rd, Allen	1 Lead ASC

6. Apple employees are not present within Best Buy's stores every day that those stores are open. The largest population of Apple employees, the Specialists, only work part-time within Best Buy stores from Friday to Sunday.

7. While present in Best Buy's stores, Apple employees are responsible for engaging with Best Buy's employees and customers, educating them about Apple's products, advocating for Apple's brand, and helping customers choose an Apple product that best suits their needs. Apple's employees do not have any Apple merchandise with them while in Best Buy's stores. Best Buy owns the merchandise and demonstration models of Apple's products within Best Buy's stores. Apple does not provide its employees with any Apple products or literature to bring with them to Best Buy's stores. Apple also does not store any products or literature within Best Buy's stores.

8. Apple has limited the role of its employees within Best Buy's stores to avoid supplanting the role of Best Buy's employees, who are solely responsible for conducting the business of Best Buy's stores. Apple employees in Best Buy's stores do not exercise any control over Best Buy's employees.

9. Apple's employees do not have access to cash registers within Best Buy and do not complete any transactions with customers at Best Buy. All purchases of Apple products at Best Buy are handled by Best Buy employees. Best Buy also sets the prices for the Apple products that it sells.

10. Apple employees also do not manage inventory at Best Buy. Apple employees do not have access to locked inventory within Best Buy's stores or Best Buy's computer systems for checking inventory. All inventory management of Apple products at Best Buy's stores is done by Best Buy employees.

11. Apple employees do not repair products at Best Buy and are not involved in the repair of Apple products at Best Buy locations. Any such repairs are performed and overseen solely by Best Buy employees.

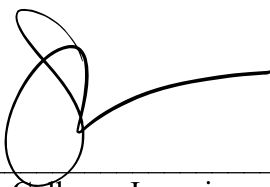
12. Best Buy maintains complete control over the operation of its stores. For example, Best Buy sets the hours of operation for its stores. Best Buy controls who can be present in its stores and has the right to remove Apple employees from Best Buy's stores if it deems it necessary.

II. Apple Does Not Require Its Employees to Live in the Eastern District of Texas

13. While Apple requires that its employees show up for their scheduled shifts at the stores of third-party retailers within the Eastern District of Texas, Apple does not dictate where its employees working in the Eastern District of Texas live. In fact, some Apple employees—such as Lead ASCs—work within multiple third-party retail locations and therefore are expected to travel as part of their jobs. Apple employees who work in third-party retailers are free to reside wherever convenient for them.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: 10/18/2024



Stephanie Calhoun Jemmings